

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ESTEBAN F. MARTINEZ HERNANDEZ,

Defendant.

4:12CR3077

MEMORANDUM AND ORDER

Defendant has moved to continue the trial currently set for November 6, 2012. (Filing No. 22). As explained in the motion, the defendant needs additional time to investigate this case and review discovery; the parties are currently engaged in plea discussions; and defense counsel has experienced health issues which have impeded his ability to meet with his client. The motion to continue is unopposed. Based on the showing set forth in the motion, the court finds the motion should be granted. Accordingly,

IT IS ORDERED:

- 1) Defendant's motion to continue, (filing no. 22), is granted and this case is removed from Judge Strom's trial calendar at this time.
- 2) A status conference will be held at 10:00 a.m. on November 28, 2012 before the undersigned magistrate judge in Courtroom 2, United States Courthouse and Federal Building, 100 Centennial Mall North, Lincoln, Nebraska to discuss whether this case should be set for a change of plea hearing or for trial.
- 3) The defendant, defense counsel, and counsel for the government shall attend.
- 4) Based upon the showing set forth in the defendant's motion and the representations of counsel, the Court further finds that the ends of justice will be served by continuing the trial; and that the purposes served by continuing the trial date in this case outweigh the interest of the defendant and the public in a speedy trial. Accordingly, the additional time arising as a result of the granting of the motion, the time between today's date and November 28, 2012, shall be deemed excludable time in any computation of time under the requirements of the Speedy Trial Act, because despite counsel's due diligence, additional time is needed to adequately prepare this case for trial and failing to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(1) & (h)(7).

October 24, 2012.

BY THE COURT:

s/ Cheryl R. Zwart

United States Magistrate Judge